

## *Conference Reports...*

### Second Session: Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea – the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (IGC2 – BBNJ)

United Nations Headquarters, New York, 27 March - 5 April 2019

Seychelles is now actively participating in the negotiation process for the development of a new treaty for the conservation and sustainable use of biodiversity in areas beyond national jurisdiction (known as Biodiversity Beyond National Jurisdiction, or BBNJ).

The decision to convene an intergovernmental conference was made by the United Nations General Assembly in December 2017. It was decided that there will be four intergovernmental conference sessions for members of the UN to establish a new BBNJ treaty which will fall under the overarching framework of the UN Convention on the Law of the Sea (UNCLOS). Currently UNCLOS is the convention that provides guidance on all aspects of the sea: territorial, contiguous, continental shelf, as well as the high seas. However there exist a number of gaps in the current convention on the use and management of the high seas which this new treaty will aim to address. Since the high seas account for over two thirds of global oceans, and in order to truly achieve global sustainability, there is a need to put in place processes and measures to address emerging threats to and uses of biodiversity beyond national boundaries. This new treaty will not apply to Seychelles' own marine areas but only to areas beyond any state's jurisdiction.

The negotiations for the new BBNJ treaty focuses on four thematic areas and some cross-cutting issues. These elements are: Marine Genetic Resources (MGRs), Area-Based Management Tools (ABMTs) including marine protected areas, Environmental Impact Assessments (EIAs), Capacity Building and The Transfer of Marine Technology.

Marine Genetic Resources (MGRs) are the genetic material of marine organisms that may have use or value for humanity. Marine scientific research into MGRs could help to develop new medicines or compounds for use in food or industrial processes. There are currently no specific legal provisions for MGRs under UNCLOS; and as such, under the negotiation, members would need to define MGRs and decide on how access and use will be regulated,

but most importantly what type of benefits will come out of their exploitation/commercialization and who would benefit.

The new treaty proposes the establishment of effective area-based management tools, including marine protected areas that will regulate activities in ABNJ. During the negotiations members have to agree on the objectives of such tools or protected areas, how to draw on the expertise of existing bodies, and how to allocate roles and responsibilities between any new global body established by the new treaty and existing bodies (whether to take a global, regional or hybrid approach).

In some circumstances, UNCLOS requires environmental impact assessments (EIAs) to be conducted for activities in the high seas. However, at the moment there is a general lack of guidance on when activities trigger the need for an EIA, the type and amount of information required, or how the cumulative impact of activities can be assessed and managed. In the negotiations, members will have to establish enough provisions to guide the EIA process and/or whether it will cover strategic environmental assessments.

Many developing states including SIDS wish to build their marine scientific and technological capacity so they can participate fully in the conservation and sustainable use of marine biodiversity. This capacity is also required generally to ensure comprehensive information on marine biodiversity is available. As such, in the negotiations, states have to make sure that there is enough clarity on how this capacity-building and transfer of technology to developing states will occur, on how to build on the existing provisions in UNCLOS, and how to promote the involvement of the private sector.

During the negotiations a number of cross-cutting issues are also being addressed: on governance and institutional arrangement for the new treaty, operationalisation, monitoring and review of the treaty, financial mechanisms, etc.... This is the norm for other such international treaties.

The second session of the IGC-BBNJ was held at the United Nations Headquarters in New York from the 27 March to the 5 April. The session was attended by UN Member States, non-governmental organizations, civil society organizations, and academia as well as indigenous and local community groups. In the conference, delegates had the opportunity to interrogate and interact with the Presidential Aid Document which incorporated a set of options that would ultimately lead to the formulation of the draft treaty text. Over the two weeks all delegates had the chance to unpack the fifty-seven page document, to lobby in regional groupings (e.g. Africa Group, G77 and China, AOSIS, etc) and to narrow down towards a zero draft treaty. At this stage of the process, text-based negotiations have not yet started.

Seychelles was represented at the second IGC session by a small delegation which included Mrs. Marie-May Muzungaile, Director General of Biodiversity Conservation and Management Division. She was supported over the two-week long session by Ms. Lorraine Faure and Ms. Tamara Brown, both based in US. The Seychelles team attended all the informal working-group sessions which covered all the elements of the proposed treaty. The team also made a number of statements that reflected national priorities, for example the issue of benefit sharing from use of MGRs to SIDS, the importance of having EIAs in the high seas due to the adjacency to national waters, etc..... The country is very mindful that there is only one ocean and that unsustainable use of high seas marine biodiversity can impact on biodiversity within national jurisdiction.

Since coming back from the conference, a national core group has been established including the Environment Department, the Blue Economy Department, Seychelles UN Mission, and other stakeholders, to help prepare for subsequent sessions of the IGC for BBNJ. The third session is expected to take place in New York in August 2019, with the fourth and final session expected sometime in mid-2020. If all goes according to plan the treaty is expected to be ready for signature in 2020. Seychelles, being a large oceanic state, and with our current Ocean's Agenda is taking this BBNJ process very seriously and is looking forward to the operationalisation of this new treaty.

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*Seychelles' delegation at the IGC 2-BBNJ at UN Headquarters, New York.  
From left to right: Marie-May Muzunguile, Tamara Brown, Lorraine Faure*